
10. PROGRAM COMPLIANCE

10.03 Employee Compliance

FINAL

PURPOSE

This policy defines abuse and fraud and establishes procedures which the local agency shall follow when identifying, investigating and implementing actions in response to reported program abuse by a WIC employee.

It is expected that the Local Agency will follow its own Human Resources Policy in conjunction with this policy when abuse and/or fraud by an employee is reported. Where the Agency's Policy does not address WIC specific incidences this policy shall be applied.

DEFINITIONS

Refer to Exhibit 10.02A for definitions.

A. POLICY

1. The Local Agency is responsible for educating WIC employees about the WIC program rules, policies and procedures.
2. Allegations of program abuse shall be documented in writing, on a Complaint Report form (see exhibit 10.02C). A complaint report may be completed on the basis of, but is not limited to, any of the following:
 - A state or locally generated report such as a M-TRACX system report.
 - A signed affidavit from a source that a WIC employee has misrepresented information.
 - Public information reports (e.g. newspaper reports of the employee misrepresenting herself/himself).
 - Anonymous phone calls or letters.
 - Report from WIC vendors, WIC employees, other employees or the general public.
 - In-clinic observation (e.g. verbal abuse or threatened physical abuse).
3. WIC applicants, participants, vendors and general public have a right to make a written or verbal complaint regarding the Local WIC Agency and/or its WIC employees.
4. The Local Agency Coordinator shall develop and maintain a central complaint logging system in order to identify multiple occurrences of abuse by an employee (see Exhibit 10.03B for example).
5. The Local Agency WIC Coordinator shall conduct the initial investigation of a complaint following protocols in this policy.

10. PROGRAM COMPLIANCE

10.03 Employee Compliance

FINAL

6. The Coordinator shall complete an Employee/Agency Complaint Investigation Report (see Exhibit 10.03B) and determine if the complaint is substantiated.
7. If the investigation warrants a sanction, the Coordinator shall notify the employee and impose a sanction listed in Exhibit 10.03C.

Employee as participant: When abuse or fraud is alleged against a WIC employee, who is also a participant, and the type of abuse/fraud is participation related, the local agency shall refer to Participant Sanctions for appropriate action (see Exhibit 10.02F). Additional actions shall be applied per this policy and the Local Agency's Human Resources Policy.

8. **Recoupment of Benefits:** In addition to an imposed sanction, the MDCH/WIC Division will submit claims against any employee that has fraudulently obtained or administered WIC benefits. Failure to repay these benefits will result in a referral to the State Attorney General's office for further collection and/or prosecution.
9. The Local Agency Coordinator shall notify the employee, in writing, of the action to be taken upon completion of the investigation and prior to the implementation of a sanction (refer to your Agency's Human Resource Office for proper notification procedures. If no procedures exist, see sample letter in Exhibit 10.03E).
10. A copy of the Complaint Report (Exhibit 10.02C) shall be forward to MDCH/WIC Division within 10 calendar days of documentation or immediately according to the violation (see Exhibit 10.03C). The completed Investigation Report shall be forwarded to the MDCH/WIC Division within 30 calendar days following completion. The Local Agency shall retain copies of all pertinent documentation for 3 years + 150 days (see Policy 1.10 Records Retention and Destruction).
11. Processing Complaints:
Complaints received at the Local Agency shall be processed in the following manner:
 - a. Upon expressed request of the complainant, Local Agency Staff shall provide a complaint report form and the name, address and telephone number of the WIC Coordinator to the complainant.
 - b. The Local Agency Staff shall assist persons in completing the Complaint Report form when necessary.
 - c. The Coordinator shall complete a Complaint Report upon immediate receipt of a verbal or document complaint, or upon suspicion or detection of employee abuse or fraud (see Exhibit 10.02C). For discrimination complaints see Policy 1.22 and the Civil Rights Training Manual.

10. PROGRAM COMPLIANCE

10.03 Employee Compliance

FINAL

- d. Depending on type of complaint, the Coordinator shall move the employee from access to coupons/EBT benefits immediately and cancel password(s) until the investigation is complete, and notify the MDCH/WIC Division immediately.
 - e. The Coordinator, in conjunction with the MDCH/WIC Division shall review the content of the complaint report, determine the violation (if any), and determine the investigation strategy in accordance with the provisions of this policy.
11. Conducting Investigations
- The Coordinator shall conduct the initial investigation of the complaint report using the following protocol:
- a. Obtain and review documentation pertaining to the allegation (see Exhibit 10.03B). The amount of documentation and verification depends upon the alleged violation type. The investigation may include, where appropriate, the collection and review of pertinent documents and information such as:
 - Certification/recertification dates and other chart documentation for the period in question, such as proof of income, residency, identification form, etc.
 - M-TRACX Systems reports and other on-line documentation of transactions.
 - Coupon copies or Electronic Benefits Transactions (EBT) for the period in question.
 - Documentation of cash value of WIC Coupons/EBT Benefits (request through MDCH/WIC Consultant).
 - Signed affidavits or transcripts of telephone calls or in person reports from complainant and/or other individuals.
 - Other documents/factors relevant to determine whether the employee has failed to comply with the policies and procedures of the WIC program.
 - If applicable, estimate the calculated dollar value of the abuse or fraud (i.e. coupon values, etc.).
 - Identify and document multiple occurrences of abuse by the same employee(s).
 - b. **Whenever feasible, request a meeting with the employee to obtain an employee response and any additional information regarding the allegation.** During the meeting, the following may take place:
 - Follow human resources grievance procedures.
 - Discuss the allegation and the documentation/information collected.
 - Ask questions to help determine abuse or fraud, take detailed notes during the interview.
 - Review the employee's personnel file. Discuss, if any, signed work agreements.

10. PROGRAM COMPLIANCE

10.03 Employee Compliance

FINAL

- Explain the investigation process, possible actions which may be taken and any grievance procedures in place.
 - c. Analyze the information collected and determine if there is sufficient or insufficient evidence supporting the allegations. Complete the Investigation Report (see Exhibit 10.03C).
 - d. Complaints which are not substantiated or confirmed shall be indicated on the Complaint Investigation Report Form. The form shall be filed in a separate file from the participant's chart and a copy forwarded to the MDCH/WIC Division. No further action is required.
- 12. Confirmed Allegations and Employee Sanctions
If the complaint is confirmed, the Coordinator, in conjunction with the MDCH/WIC Division shall:
 - a. Determine the action or sanction to be applied based on the type of violation (see Exhibit 10.03D).
 - b. **Notify MDCH/WIC Division.** A copy of the Complaint Report and completed Investigation Report shall be forwarded to the MDCH/WIC Division after the investigation is completed (or immediately upon request by MDCH WIC). Copies of all supporting documentation shall be maintained in the employee's file.
 - c. Refer to the Local Agency's Human Resource Policy for applying the sanction and notifying the employee. If no policy exists as such:

Draft and sign the "*Employee Notice of Complaint*" include the alleged violation, investigation findings, action to be taken, if any, and the effective date of the sanction, see sample letter in Exhibit 10.03E).
 - d. The "Employee Notice of Complaint" letter shall be delivered by mail or in person to the employee.
 - If the employee is physically present, s/he may sign for the notice acknowledging receipt of the decision and that a copy has been provided.
 - If the employee refuses to sign a receipt, the notice shall be noted that the employee refused to sign.
 - e. Implement the sanction (and notify all parties as required).

10. PROGRAM COMPLIANCE

10.03 Employee Compliance

FINAL

13. Record Keeping and Retention

- a. All complaint reports and corresponding investigation documentation must be maintained on file.
- b. Unconfirmed files shall be filed in a separate file from the employee's file and a copy forwarded to the MDCH/WIC Division. No further action is required.
- c. Confirmed complaints and supporting investigation documents shall be filed in the employee's file, and maintained separate and apart from other employees' files.

References:

Federal Regulations 246.7, k, (1), (2); 246.23, (c), (d)
Local Agency's Human Resources Polic(ies).

Cross references:

1.10 Records Retention and Destruction
WIC Policy and Procedures Manual
WIC Online System Training Manual, MTRACX Termination Codes
WIC Civil Rights Training Manual
Exhibit 10.02C, Complaint Report

Exhibits:

10.03A - Types of Violations
10.03B - Employee/Agency Complaint Log
10.03C - Employee/Agency Complaint Investigation Report
10.03D - Employee Sanctions for Abuse or Fraud
10.03E - Employee Notice of Complaint Letter